

March 9, 2012

Ms. Marlene H. Dortch, Secretary Federal Communications Commission 445 Twelfth Street, SW Washington, DC 20554

Re: PP Docket No. 00-67

MB Docket No. 11-169 WT Docket No. 12-4

Dear Ms. Dortch:

On March 7, 2012, I met with Zachary Katz, Chief of Staff to Chairman Genachowski, with regard to the above captioned proceedings.

With regard to Docket No. 12-4 (Verizon/Spectrumco), I noted that we had filed a request for extension of time that morning, and urged that the Commission grant the extension of time requested. I also argued that the FCC should reject the invitation of the applicants to review the documents at the Department of Justice, and should require them to submit complete copies of the agreement into the record. While the Commission has an independent duty to investigate and verify that a transaction serves the public interest, the FCC depends on an adversarial process between Applicants and those filing Petitions to Deny to create a complete record. Commission staff, in tern, benefit from the specialized knowledge and different perspectives provided by Petitioners.

With Regard to MB Docket 11-169/PP Docket No. 00-67, I applauded the recent proposal of Hauppauge Computer Works, Inc., submitted on March 2, 2012¹ as a positive step forward in resolving this issue. While PK continues to believe that encryption and conversion to digital will provide real benefits to consumers (subject to modifications suggested by PK/MAP to ensure that consumers are adequately protected and that all low-income subscribers receive free boxes during the transition period), PK also agrees with equipment manufacturers that there is a strong public interest in preserving the ability of new, innovative devices to operate on the basic tier. The Hauppauge proposal is a substantive proposal to balance these competing goals.

The Commission should encourage the CE manufacturers and cable MSOs to find an approach that will allow the cable operators to move forward expeditiously with digital conversion while protecting consumers that have purchased devices that operate on the basic tier. In this regard, PK noted that it is highly relevant to the long-delayed Allvid proceeding that, despite the insistence of the industry that Allvid is unnecessary, the open basic tier has been the focus of CE innovation by independent CE manufacturers. There is no doubt that if the Commission were to extend the historic accessibility of the basic tier under the existing rules to all programming tiers and services, that CE manufacturers would rush to seize the chance. Accordingly, arguments that the current lack of independent devices and innovative new services in the set-top box market are

¹ Available at http://apps.fcc.gov/ecfs/document/view?id=7021897890

the result of market forces rather than the unwillingness of MVPDs to permit attachment of these devices is belied by this accidental real-world experiment on the open basic tier.

As PK has previously stated,² devices by manufacturers such as Hauppauge and Boxee are "an early vision of the kind of next-generation video device that's needed to push the TV Industry forward. . . . It would be perverse if the FCC actively thwarted" such devices. Development of an approach to facilitate the cable digital transition while simultaneously protecting the innovation currently taking place on the basic tier should therefore be encouraged for all parties.

In accordance with Section 1.1206(b), this letter is being filed with your office. If you have any further questions, please contact me at (202) 861-0020.

Respectfully submitted,

/s/Harold Feld Legal Director

cc:

Zac Katz

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² John Bergmayer, "Let's Get The Future of TV Right," Public Knowledge Blog (February 2, 2012). Available at http://www.publicknowledge.org/blog/lets-get-future-tv-right